

STATEMENT OF

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BEFORE THE
COMMITTEE ON GOVERNMENT REFORM

U.S. HOUSE OF REPRESENTATIVES

ON

“CAN YOU CLEAR ME NOW?:
WEIGHING ‘FOREIGN INFLUENCE’ FACTORS
IN SECURITY CLEARANCE INVESTIGATIONS”

JULY 13, 2006

Good morning, Mr. Chairman. I'm Bob Andrews, the Deputy Under Secretary of Defense for Counterintelligence and Security. My office is responsible for implementing personnel security policy. This includes the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information issued by the President. I understand that this hearing focuses on the impact of foreign influence in security clearance investigations. I note at the outset of this hearing that "foreign influence" is but one factor in making a decision on whether a person is eligible for access to Classified National Security Information.

Some background – There are approximately 3.2 million cleared personnel within the government. Of that total, roughly 2.5 million are within DoD. On an annual basis, DoD may process over 600,000 clearance actions.

In managing such a large security program, the Department complies with executive orders, presidential issuances, and all applicable law to ensure that determining eligibility for access to classified information is uniform, efficient, effective, and timely.

The security clearance process begins with a determination by a senior official that an individual requires access to classified information for the performance of his or her duties. The individual completes a security questionnaire, and it is submitted for investigation. Upon completion of the investigation, the results are sent to an adjudication facility. The Department has nine central adjudication facilities - or CAFs. These are staffed by over 400 trained adjudicators. The adjudicator reviews the completed investigation and

makes a determination whether or not to grant, deny, or revoke access to classified information.

To ensure we have as much consistency as reasonable among the nine CAFs, my office chairs a policy review board made up of representatives from each CAF.

The adjudicative process examines a person's background to determine whether or not that person's access to classified information poses an unacceptable risk to the national security.

We predicate access to classified information on the individual meeting the adjudication guidelines. We make adjudication decisions based on the "whole person" concept. We consider reliable information about the person - past and present, favorable and unfavorable. We then determine each adjudication decision on a case-by-case basis.

I want to emphasize that we consider mitigating issues and circumstances as integral aspects of the clearance process.

If the adjudicator decides to deny or revoke a clearance based on the information reviewed, the individual is afforded due process through the right of appeal.

For military and civilian personnel: this process provides the individual with:

- a written explanation detailing why the clearance may be denied or revoked

- an opportunity to reply in writing
- an opportunity to appear personally and present evidence
- the right to be represented by counsel
- a written notice of the final decision, and
- an opportunity to appeal the decision to an agency panel.

For contractor personnel: The process for employees of government contractors is somewhat different, though very similar. Contractor employees are afforded an opportunity to question individuals who have provided information adverse to the employee whose clearance is at issue and an opportunity to bring witnesses to develop their case.

The adjudicative guidelines were first issued by the President in March 1997; and a revised set of guidelines have been re-issued in December 2005. DoD applies adjudicative guidelines to every case.

It is inevitable that application of certain criteria in the adjudicative guidelines may result in the loss or denial of access to classified information where there is evidence of foreign preference or allegiance. A person having dual citizenship, a foreign passport, or close associations in foreign countries could be at risk of being determined to have a foreign preference or allegiance. Each determination to grant access to national security information is decided on a case-by-case basis after the DoD adjudicators assess the risks to national security.

The guidelines that we follow do not identify any particular country to consider in making a negative determination of eligibility for clearance. There are no automatic denials based on country. Additionally, an individual's religious

affiliation plays no part in the security clearance process. That's simply not the operating procedures.

On the matter of foreign passports, I would further note that in August 2000, DoD issued clarifying guidance concerning cases involving an individual's possession or use of a foreign passport. The revised adjudicative guideline we are now implementing states that the "possession of a current foreign passport" may be a disqualifying condition. The only accepted mitigating factor is approval from the United States Government for the individual to continue to possess or use the foreign passport. As a result of the fair and consistent application of the guideline, an individual could sufficiently mitigate the risk to national security by doing one of the following two things: (1) voluntarily choose to surrender the passport, or (2) obtain official approval for its use from the appropriate agency of the United States Government. Again, mitigation of the risk of foreign preference is decided on a case-by-case basis.

The Department is in the process of implementing the revised Adjudicative Guidelines issued by the President this past December and will issue the new guidelines to all adjudicators. Toward this end, DoD has:

- developed a training program to address the changes in the guidelines. Of specific importance to the new training program are the revised factors to address changes in the security environment, including intelligence and terrorist threats, the global economy, and an increasingly diverse society;

- coordinated the guidelines internally with the CAFs to ensure common understanding of new terminology used in the guidelines;
- incorporated the Smith amendment into the DoD issuance of the revised guidelines (Note: The Smith amendment imposes additional security requirements only for DoD concerning the guidelines on criminal conduct, drug involvement, and psychological conditions); and
- begun updating the Adjudicator's Desktop Reference and the adjudication module in the Joint Personnel Adjudication System.

Once DoD is assured that the adjudicators are trained, we will transition the case determinations to the criteria in the revised guidelines. At that time, all instances in which the Department seeks to revoke or deny a clearance will be checked against the new adjudication guidelines to ensure that the decision is consistent with the new guidelines.

Mr. Chairman, we are making every effort to ensure that determinations of access to classified information are adjudicated fairly and balance the interests of the individual with the need to protect our national security interests.

Mr. Chairman, this concludes my statement.